

HOUSEHOLD EMPLOYMENT

Household employment is provided in a variety of settings, such as in your private home, a local college club, or the local chapter of a college fraternity or sorority. Household workers (employees) may include, but are not limited to, cooks, waiters, waitresses, butlers, housekeepers, governesses, governors, maids, valets, babysitters, janitors, laundresses, furnacepersons, caretakers, home health care workers, handypersons, gardeners, chauffeurs, crews of private yachts, and pilots of private airplanes for family use.

Household employment does not include services performed by private secretaries, tutors, librarians, musicians, carpenters, plumbers, electricians, painters, or other skilled craftsmen.

What Is a Private Home?

Private homes include fixed places of residence, apartments, hotel rooms, summer or winter homes, etc., in which a social unit formed by an individual or family resides.

Private homes do not include premises used primarily as a business enterprise, such as residential care homes, boarding houses, hotels, hospitals, etc., unless the workers are employed by the resident of such a facility and not by the owner.

When Must an Employer of Household Workers Report Wages?

An employer of household workers must report when he/she employs one or more individuals to perform work and pays **cash wages** of \$750 or more in a calendar quarter. You must register with the Employment Development Department (EDD) within 15 days after you pay \$750 in total cash wages.

What Are Wages?

“Wages” are payments made to an employee for services performed during employment and may be made in the form of cash or some medium other than cash. Mediums other than cash include meals and lodging. (Refer to chart for values of meals and lodging.)

Note: Once you meet the cash wage limit, you must also include as subject wages all cash and noncash payments such as the value of meals and lodging.

State Disability Insurance (SDI)

When you pay cash wages of \$750 to \$999.99 in a calendar quarter, you are responsible for reporting wages for the purposes of SDI only. SDI taxes are deducted from employees' wages and remitted by the employer to the EDD. Your withholding and remittance of SDI taxes will continue through the remainder of the year and all of next year, even if you pay less than \$750 in wages for subsequent quarters.

The SDI tax rate and taxable wage limit are subject to change annually. Employers are notified annually of these changes on the *DE 2088, Notice of Employer Contribution Rates and Statement of Reserve Account*. The preprinted *DE 88, Payroll Tax Deposit*, coupon book also provides the rates and taxable wage limits.

Note: Wages include SDI taxes, but not social security taxes, paid by the employer for the employee. Refer to *DE 231Q, Information Sheet: Social Security/Medicare/SDI Taxes Paid by an Employer*, for more information.

Unemployment Insurance (UI) and Employment Training Tax (ETT)

When you pay cash wages of \$1,000 or more in a calendar quarter, you are responsible for reporting wages for the purposes of UI and ETT, as well as SDI. UI and ETT are contributions that employers are required to pay to EDD on the wages paid to each employee. Your payment of UI and ETT taxes will continue through the remainder of the year and all of the next year even if you pay less than \$1,000 in wages for subsequent quarters.

The UI tax rate and taxable wage limit are subject to change annually. Employers are notified annually of these changes on the *DE 2088*. The preprinted *DE 88* coupon book also provides the rates and taxable wage limits.

Personal Income Tax Withholding (PIT)

State law does not require you to withhold California PIT from the wages paid to household employees. However, if you and your employee agree, voluntary PIT withholding

may be made and then reported and paid to the EDD. When the employee and employer have agreed to voluntary PIT withholding, meals and lodging are subject to PIT, except when furnished for the employer's convenience and on the employer's premises.

If more than half of the employees receive meals which are for the convenience of the employer, all meals furnished by the employer are considered furnished for the employer's convenience and are therefore not subject to voluntary PIT withholding. If fewer than half of the employees receive meals which are for the convenience of the employer, only those meals actually provided for the employer's convenience would be exempt from the voluntary PIT withholding agreement.

Lodging is not subject to PIT if the employee must live at the place provided by the employer to qualify for employment.

If you and your employee agree to withhold PIT from earnings, the employee must complete a federal *Form W-4, Employee's Withholding Allowance Certificate*, or the EDD's *DE 4, Employee's Withholding Allowance Certificate*, to establish the worker's marital status and the appropriate number of withholding allowances.

Taxable Value of Meals and Lodging

The taxable value of meals and lodging should not be less than the reasonable estimated value stipulated by the contract of employment or in a union agreement. If the cash value is not stipulated in the hiring contract or union agreement, the taxable value is established by regulation as presented below:

Meals

| Year | 3 Meals per day | Breakfast | Lunch | Dinner | Unidentified |
|------|-----------------|-----------|--------|--------|--------------|
| 1999 | \$7.55 | \$1.65 | \$2.30 | \$3.60 | \$2.65 |
| 2000 | \$7.75 | \$1.70 | \$2.35 | \$3.70 | \$2.70 |
| 2001 | \$7.85 | \$1.70 | \$2.40 | \$3.75 | \$2.75 |
| 2002 | \$8.20 | \$1.80 | \$2.50 | \$3.90 | \$2.85 |
| 2003 | \$8.45 | \$1.85 | \$2.55 | \$4.05 | \$2.95 |

Lodging

The taxable value of lodging is 66 2/3 percent of the ordinary rental value to the general public up to a maximum per month and not less than a minimum value per week.

| Year | Maximum per month | Minimum per week |
|------|-------------------|------------------|
| 1999 | \$705 | \$22.90 |
| 2000 | \$742 | \$24.05 |
| 2001 | \$778 | \$25.25 |
| 2002 | \$826 | \$26.80 |
| 2003 | \$886 | \$28.75 |

Reporting Requirements

Tax payments are made with a *DE 88*. A listing of wages paid to employees and the California PIT withheld from each will be submitted quarterly on a *DE 6, Quarterly Wage and Withholding Report*. At the end of the year, employers will receive a *DE 7, Annual Reconciliation Statement*, which will be used to reconcile payments for the calendar year.

Annual Payment

Employers of household workers who pay less than \$20,000 per year in wages can elect to pay annually by submitting a *DE 89, Employer of Household Worker Election Notice*. If the election is approved, an employer of household workers will file a *DE 3BHW, Quarterly Report of Wages and Withholdings for Employers of Household Workers*, quarterly. However, the employer will pay all taxes due in January of the following year when filing *DE 3HW, Annual Payroll Tax Return for Employer of Household Workers*.

Note: If at any time during the year the total wages paid exceed \$20,000.00, the election to pay annually will be terminated and the employer will be required to file an annual contribution return to close out the prior quarters. The employer will then be required to make payments under the same rules as commercial employers.

Examples of When, What, and How Much to Report:

These are some examples that may clarify the taxability of wages for purposes of UI, ETT, SDI, and PIT withholding.

Example # 1:

You pay \$900 in cash wages each quarter and provide lodging valued at \$200. Lodging is provided on your premises for your convenience and as a condition of employment. You would not be liable for UI and ETT. However, you would be liable for withholding SDI contributions on the entire \$1,100. If you and your employee agree to PIT withholding, you would withhold PIT only on \$900.

Example #2:

You pay \$1,000 in cash wages each quarter and provide lodging valued at \$200. Lodging is provided on your premises for your convenience and as a condition of employment. You must report the wages and pay UI, ETT, and SDI on the entire \$1,200. If you and your employee agree to PIT withholding, you would withhold PIT only on \$1,000.

Example # 3:

You regularly pay \$900 in cash wages during a calendar quarter. You hire another employee for gardening to whom you pay \$100. You must report and pay UI, ETT, and SDI in that calendar quarter, the remainder of that calendar year, and the next calendar year since you paid a total of \$1,000 in cash wages. If you and your employees agree to PIT withholding, you would withhold PIT on \$1,000.

In-Home Supportive Services (IHSS)

If you are an IHSS recipient and employ an IHSS provider in your home, you should contact your county social welfare worker for information about your responsibilities. Persons who receive services under the IHSS Program are generally not required to register with the EDD. The county Welfare Department or the State Department of Social Services has responsibility for these workers.

Note: When an IHSS recipient personally pays wages to a household employee (to supplement the services compensated by IHSS), the recipient is responsible for reporting the additional wages and paying the additional employment taxes due on the recipient's EDD account.

If, however, a third party (such as a family member or nonprofit agency) pays additional wages for an IHSS recipient's household employee(s), the third party would be a separate employer required to report wages and pay taxes according to the guidelines previously mentioned.

Who Is the Employer of a Household Worker Placed by an Employment Agency?

Effective January 1, 1994, any employment agency defined in Section 1812.501 of the Civil Code will not be the employer of a household worker it placed in employment in a private home if certain factors exist. First, it must be established that the household worker is/was an employee under common law rules. Then, it must be determined whether or not the business placing the worker is an employment agency as defined in the Civil Code as either:

- 1) Any person who, for a fee or other valuable consideration, procures, offers, promises, provides, or attempts to procure baby sitting or domestic employment for others or domestics or baby sitters for others, or
- 2) Any agency which provides or attempts to provide employment by placement of domestic help in private homes.

If the household worker is a common law employee and the company is an employment agency as defined in the Civil Code, Section 687.2 of the California Unemployment Insurance Code (CUIC) must be applied to determine whether or not the company is the employer of the household worker.

Section 687.2 states an employment agency will not be the employer of a domestic worker if all of the following factors exist:

- There is a signed agreement between the employment agency and the household worker specifying:
 - (1) the agency will assist the worker in securing work,
 - (2) how the agency's referral fee will be paid, and
 - (3) the domestic worker is free to sign with other employment agencies.
- The household worker informs the employment agency of his/her availability to work and the conditions under which he/she will work, and the worker can reject any assignment.

- The household worker is free to renegotiate with the client the amount proposed to be paid for the work.
- The household worker does not receive training from the employment agency regarding the performance of the work.
- The household worker performs work without any direction, control, or supervision exercised by the employment agency.
- The employment agency does not provide tools, supplies, or equipment necessary to perform the work.
- The household worker is not required to pay the employment agency and the agency is not required to pay the worker if the client fails to pay for the services performed.
- Payments are made directly to the household worker or the employment agency. Payments made to the agency must be deposited into a trust account. Payments made to a worker cannot be made from the agency's business account.
- The working relationship between the household worker and the client can only be terminated by either party, not the employment agency.

If, according to Section 687.2 of the CUIIC, the employment agency is not the employer of the household worker, the customer will be considered the employer. If the business is determined not to be an employment agency as defined in the Civil Code, the identity of the employer of a household worker will be determined using Precedent Tax Decision P-T-473 and Section 606.5 of the CUIIC.

Refer to form *DE 231F, Information Sheet: Temporary Services and Employee Leasing Industries*, for more detailed information on three-party relationships and information regarding the identity of the employer of a household worker placed by a housekeeping company.

Additional Information

For additional information, please refer to the *DE 8829, Household Employer's Guide*. If you have any questions, you may:

- Visit your local Employment Tax Office, listed on page 1 of the DE 44, California Employer's Guide.
- Call us toll-free at 1-888-745-3886.
- Visit our Web site at www.edd.ca.gov under "Department Directory-Employment Tax."

Speech and hearing impaired persons can contact us by calling 1-800-547-9565.

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| <p>Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities.</p> |
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